

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)
Wm. A. KNAUS & Richard D. MARKS) Group Art Unit: 3626
)
Application No: 09/822,261) Examiner: Lena A. Najarian
)
Filed: March 26, 2001)
)
Title: **BROADBAND COMPUTER-BASED NETWORKED SYSTEMS FOR
CONTROL AND MANAGEMENT OF MEDICAL RECORDS**

MAIL STOP = APPEAL BRIEF - PATENTS

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO THE NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Sir:

Appellant received a Notification of “Non-Compliant Appeal Brief (“Notification”), mail dated February 22, 2008. According to the Notification, Appellant’s Appeal Brief, filed on October 30, 2006, is allegedly defective for failure to comply with one or more provisions of 37 CFR 41.37. In particular, boxes 4 and 10 are checked indicating that Appellant’s Appeal Brief is lacking certain required elements.

Under box 10 is written that, with regard to box 4, “[t]he ‘Summary of Claimed Subject Matter’ section of the brief is [sic] non-compliant because independent claims are not identified by its specific claim number when mapping to the specification by page and line number.”

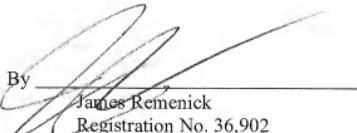
Applicant, therefore, respectfully submits a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v). As indicated in the Order Returning Undocketed Appeal to Examiner (“Order”) mailed to the Examiner by the Board of Patent Appeals and Interferences on February 13, 2008, “an entire new brief need not, and should not, be filed.” Order at page 2. Thus, Applicant respectfully requests that this basis for non-compliance be withdrawn.

No other amendments have been made to the Appeal Brief other than those described above.

If there are any fees due with the filing of this reply, including any fees for an extension of time, Applicant respectfully requests that extension and also requests that any and **all fees due be charged to Deposit Account No. 14-1437, referencing Attorney Docket No. 8123.003.US.**

Respectfully submitted,
Novak Druce + Quigg LLP

By



James Remenick
Registration No. 36,902

Date: March 24, 2008

Attached: Summary of Claimed Subject Matter

Customer No. 69911
Novak Druce + Quigg LLP
1300 I Street, N.W.
1000 West Tower
Washington, DC 20005
Telephone: (202) 659-0100
Facsimile: (202) 659-0105

SUMMARY OF CLAIMED SUBJECT MATTER

Appellant's claimed invention is directed to a broad-band, computer-based, networked system of medical health records. The system comprises a collection of patient-based electronic medical records, as contrasted with hospital-based or institutional-based. The records are of a plurality of persons, at least one of which is encrypted or secured when collected, accessed, inputted, viewed, integrated or transmitted, wherein: the medical records are obtained and electronically compiled from a plurality of sources; one or more medical records of the collection possess a characteristic of non-repudiation such that medical information contained within said medical records is verified as to accuracy and certified for accuracy; the medical record of a person is transmitted in whole or in part only to that person and others authorized by that person; each medical record is supplemented with additional information; and additional medical records for additional persons are added to the collection; a secure access for allowing each person to access only their own medical record; and at least another secure access for allowing said others authorized to access only that person's medical record (claim 1, specification at page 7, lines 4-5 and 16-17; page 14, lines 21-23; page 13, lines 20-21; page 18, lines 25-27; page 17, lines 14-17; page 21, lines 20-24; page 23, lines 9-10 and 15-16; page 10, lines 1-6; page 18, lines 1-5; page 21, lines 20-28; page 15, lines 1-3; page 23, lines 9-14; page 23, lines 15-16; page 15, lines 15-16; page 7, lines 13-14; page 13, lines 4-6).

The medical records of the claimed system may be electronically complied by direct input or digital scanning of written information into a computer-readable format (claim 2, specification at page 19, lines 18-23), and preferably contain the medical records of more than 100,000 persons (claim 12, original claim 12). The sources may be selected from the group consisting of hospitals, clinics, physician's offices, pharmacies and combinations thereof (claim 3, specification at page 18, lines 25-29). Medical records may be transmissible through the Internet (claim 4, specification at page 10, lines 1-7), wherein the medical record for each person may contain one or more of: a table of contents, an index, a source notation for information contained within the medical record, an electronic search tool, annotations for errors, linked annotations for errors, treatment options, health care choices, verification standards and news items relevant to the information in the medical record (claim 5, specification at page 19, lines

25-29). Secure access to the medical records may comprise passwords or encryption keys (claim 6, specification at page 18, lines 1-3), and authorized users may be selected from the group consisting of physicians, nurses, hospitals and health care institutions (claim 7, specification at page 13, lines 20-21). Preferably, all of the medical records of the collection possess the characteristic of non-repudiation (claim 8, specification at page 7, lines 3-4), and the non-repudiated medical record may be primary for treatment of the patient to whom said non-repudiated medical record pertains (claim 9, specification at page 7, lines 5-8). The medical information of each medical record is preferably primary for treatment and thereby relied upon by medical care providers in furnishing treatment, by employees in choosing from employer benefit options, and by payors in allocating payment for services (claim 10, specification at page 7, lines 5-8).

Preferably, the medical information of each certified medical record is certified by the patient, by the source from which said each medical record was obtained, by a system provider or by a combination thereof (claim 11, specification at page 15, lines 12-30 to page 16, lines 1-14).

Preferably a fee which is assessed for each access to a medical record (claim 16, specification at page 14, lines 12-16), and/or a fee which is assessed for maintenance of a medical record (claim 17, specification at page 14, lines 12-16).

Preferably, each medical record of the system is vetted (claim 18, specification at page 20, lines 24-29), wherein the medical information of the vetted medical record contains one or more of: corrections of incorrect information, notations of incorrect information, notations of anomalies, linking of errors, linking of anomalies, notation of discrepancies, linking of discrepancies, and combinations thereof (claim 18, specification at page 20, lines 24-29).

Preferably, the collection of medical records is encrypted and secured (claim 60, specification at page 13, lines 21-23) and the medical information contained within said medical records is verified as accurate and correct by a rules-based process (claim 61, Figures 1, 2 and 8; specification at page 17, lines 14-17) which is computerized in whole or in part and involves screening by medical record paraprofessionals, nurses, physicians or specialist physicians (claim 62, specification at page 20, lines 17-20).

Preferably the medical information contained within the one or more non repudiated medical records is further certified as correct (claim 63, specification at page 16, line 12), and the medical information of each medical record can be relied upon for all aspects of treatment of the person to whom said each medical record pertains (claim 64, specification at page 17, lines 14-17).

In another embodiment the claimed system comprises a broad-band, computer-based networked system for individual control and management of electronic medical records which comprises a plurality of medical records representing a plurality of persons, wherein the medical information of at least one medical record of the plurality has been vetted, such that the medical information of said at least one medical record is better than exists at a source site from which the medical record was obtained and thereby is not subject to repudiation (claim 20, specification at page 9, lines 10-12; page 17, lines 22-25 and 14-17; page 21, lines 20-28). Preferably the medical information of said at least one medical record is certified as to accuracy of transcription (claim 21, specification at page 18, lines 7-13), and certification represents a predetermined degree of completeness, accuracy or both to said medical records (claim 22, specification at page 15, line 30 to page 16, line 2), or may be further certified as correct (claim 23, specification at page 16, lines 12-14). Certified as correct preferably indicates that the vetted medical records have been reviewed and corrected or annotated for errors, discrepancies and anomalies (claim 24, specification at page 16, lines 12-14). For example, the medical information of the vetted medical records contain one or more of: corrections of incorrect information, notations of incorrect information, notations of anomalies, linking of errors, linking of anomalies, notation of discrepancies, linking of discrepancies, and combinations thereof (claim 25, specification at page 16, lines 8-13). Also preferably, the non-repudiated medical records are primary for treatment of the person to whom each medical record pertains by all health care providers (claim 26, specification at page 17, lines 17-18). Additionally, access to any one medical record is preferably restricted to the person to whom said one medical record pertains or to others designated and authorized by said person (claim 29, specification at page 17, lines 25-29).

In another embodiment, the claimed invention comprises a computer system for management of patient-based medical records that contain medical information and are not

subject to repudiation. The system comprises a database of medical records pertaining to one or more subjects, a receiver for receiving the medical information pertaining to the medical records from one or more senders, a process for verifying that the medical information received is accurate and correct by at least vetting the medical information, a process for authorizing the senders and the additional receivers according to a set of rules that is designated by the subjects, and a transmitter for transmitting at least a portion of the medical records to one or more additional receivers and certifying that the portion transmitted is accurate (claim 46; *Id.* at page 17, lines 22-25 and lines 14-17, page 21, lines 20-28, page 13, lines 4-6 and page 15, lines 1-3). Preferably, the database is a secure database (claim 47, specification at page 9, lines 10-14).

Preferably, the receiver of the system is selected from the group consisting of: modem, cellular receiver, infrared receiver, Ethernet card, facsimile, cable modem, satellite receiver, optical, analog receiver, Internet hub, and web-server (claim 51, specification at page 11, lines 12-17), and the transmitter is selected from the group consisting of: modem, cellular transmitter, infrared transmitter, Ethernet card, facsimile, cable modem, satellite transmitter, analog transmitter, Internet hub, and web-server (claim 52, specification at page 11, lines 12-17). The process of authorizing may comprises public key encryption, digital signatures, biometrics, certificate authorities, or user passwords (claim 53, specification at page 21, lines 1-19), and the process of verifying results in an improved accuracy or correctness of at least a portion of the medical information received from said one or more senders (claim 54, specification at page 16, lines 18-20). Preferably, the non-repudiated medical records of said one or more subjects are primary for treatment of said one or more subjects by health care providers not involved with creating said medical information (claim 55, specification at page 17, lines 14-17).

The claimed system may also contain an integrator for reception, display, analysis and modification of said medical records available to be performed on a plurality of systems of health care providers, payors, clearinghouses, or oversight agencies (claim 56, specification at page 18, line 28 through page 19, line 10), and database is administered by a service provider other than said subjects, senders, and receivers (claim 57, specification at page 10, lines 1-6).

Preferably, the system further includes vetting that allows said subjects to supplement said medical records with information relating to the accuracy of said medical records (claim 58,

specification at page 20, lines 24-29). Also preferably, the system is one in which the medical records are owned and controlled by said subjects (claim 59, specification at page 13, lines 3-8).

In another embodiment, the invention is directed to a networked system comprising: a collection of patient-based electronic medical records containing medical information, wherein: the medical records are obtained and electronically compiled from a plurality of sources; the medical information contained within one or more medical records is verified as to accuracy and certified as to accuracy, and thereby possesses the characteristic of non-repudiation; the medical records are transmitted in an encrypted fashion in whole or in part only to that person and others authorized by that person; each medical record is supplemented with additional information; and additional medical records for additional persons are added to the collection; and a capability of having multiple secure accesses for a person and others authorized by the person to access only their own medical record (claim 65, specification at page 18, lines 7-13; page 24, lines 22-23; page 13, lines 20-21; page 18, lines 25-28; page 17, lines 14-17; page 21, lines 20-28; page 21, lines 1-5; page 23, lines 15-16; page 24, lines 22-23; page 17, lines 25-29). Preferably the medical information contained within said medical records is verified as accurate and correct by a rules-based process (claim 66, Figures 1, 2 and 8; specification at page 17, lines 14-17) that is computerized in whole or in part and involves screening by medical record paraprofessionals, nurses, physicians or specialist physicians (claim 67, specification at 20, lines 17-20). Also preferably, the medical information of the one or more certified medical records has a predetermined degree of completeness, accuracy or both (claim 68, specification at page 16, lines 8-14) and/or each medical record can be relied upon for treatment of the person to whom said each medical record pertains (claim 69, specification at page 13, lines 8-11).

Preferably, the medical information of all of the medical records of the collection possess the characteristic of non-repudiation (claim 70, specification at page 17, lines 14-17) and the non-repudiated medical record is primary for all aspects of treatment of the patient to whom said non-repudiated medical record pertains (claim 71, specification at page 17, lines 14-18). Also preferably, the medical information of each medical record is further certified as correct (claim 72, specification at page 16, line 12). The system may also include a certification of each medical record as accurate by the patient, by the source from which said each medical record

was obtained, by a system provider or by a combination thereof (claim 73, specification at page 15, lines 22-30) or such that each medical record is vetted (claim 74, specification at page 20, lines 20-29). Preferably, the medical information of the vetted medical record contains one or more of: corrections of incorrect information, notations of incorrect information, notations of anomalies, linking of errors, linking of anomalies, notation of discrepancies, linking of discrepancies, and combinations thereof (claim 75, specification at page 20, liens 20-29).

In one embodiment, medical records of the collection can be primary for treatment of the patient to whom the record pertains (claims 9, 26, 71; *Id.* at page 13, lines 8-13). In another embodiment, the medical records may be accessed only by the patient or individuals authorized by the patient (claims 1, 29, 46, 65; *Id.* at page 17, lines 25-29). The collection complies with federal and state standards (or geographical standards) of medical record privacy and security such as the Health Insurance Portability and Accountability Act of 1996, in those areas in which the system operates (claims 13, 14, 15, 27, 28, 48-50; *Id.* at page 13, lines 21-23).